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Attorneys for Defendant  
ELAN EFRAIM MOSHE

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ELAN EFRAIM MOSHE,

Defendant.

No. 2:21-cr-212-TLN-1

**STIPULATED MOTION AND ORDER  
TO REDUCE SENTENCE PURSUANT  
TO 18 U.S.C. § 3582(c)(2)**

RETROACTIVE CRIMINAL HISTORY  
REDUCTION CASE

Judge: The Honorable TROY L. NUNLEY

Defendant, ELAN EFRAIM MOSHE, by and through his attorney, Assistant Federal Defender David M. Porter, and plaintiff, UNITED STATES OF AMERICA, by and through its counsel, Assistant U.S. Attorney Shelley D. Weger, hereby stipulate as follows:<sup>1</sup>

1. Pursuant to 18 U.S.C. § 3582(c)(2), this Court may reduce the term of imprisonment in the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. § 994(o), after taking into account the policy statements set forth in USSG § 1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable;

2. The United States Sentencing Commission recently amended the Sentencing

<sup>1</sup> Defendant's counsel enters into this stipulation after having examined the pertinent documents including the presentence report, statement of reasons, and judgment, and conferring with the defendant and/or his trial counsel. Defendant's projected release date is August 8, 2024.

Guidelines to include what now appears in USSG § 4C1.1 (“zero-point provision”). *See* Amendment 821, Part B, Subpart 1. The zero-point provision provides a 2-offense-level reduction for certain offenders who present zero criminal history points and satisfy the criteria listed in USSG § 4C1.1(a);

3. On March 9, 2023, this Court sentenced Mr. Moshe to 24 months imprisonment, which was a 35 percent reduction below the low end of the applicable guideline range, for the reasons stated in the Statement of Reasons;

4. Mr. Moshe’s total offense level was 21, his criminal history category was I (having no criminal history points), and the resulting guideline range was 37 to 46 months;

5. The sentencing range applicable to Mr. Moshe was subsequently lowered by the zero-point provision;

6. Mr. Moshe is eligible for a reduction in sentence, which reduces his total offense level by 2 from 21 to 19, resulting in an amended advisory guideline range of 30 to 37 months;

7. When the defendant’s original sentence was below the applicable guideline range, the court may, in accordance with the exception set forth in USSG § 1B1.10(b)(2)(B), grant a comparable reduction below the amended guideline range, which in this case is 20 months;

8. Accordingly, the parties request the Court enter the order lodged herewith reducing Mr. Moshe’s term of imprisonment to 20 months. If the amount of time served as of the effective date of the Court’s order exceeds 20 months, the sentence is instead reduced to a sentence of time served, in which case, the order should be stayed for up to ten (10) days to allow the Bureau of Prisons to perform its statutory duties and release planning.

9. United States’ statement regarding its stipulation<sup>2</sup>: The defendant was convicted of Possession with Intent to Distribute over 1 gram of LSD in violation of 21 U.S.C. § 841(a)(1). The United States enters into this stipulation after reviewing the Presentence Investigation Report, government’s sentencing memorandum, Statement of Reasons, Judgment, the defendant’s Bureau of Prisons (“BOP”) disciplinary history, and after conferring with the prosecuting Assistant United States Attorney. In its sentencing memorandum, the government

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<sup>2</sup> This statement is provided by the United States and is not part of the parties’ stipulation.  
Stipulation and Order Re: Sentence Reduction 2

recommended the defendant be sentenced to the low end of the guideline range after application of relevant departures. ECF No. 71 at 2. In the defendant’s sentencing memorandum, he argued for a lower total offense level—an offense level of 19—that would have resulted in an advisory guideline range of 30 to 37 months. ECF No. 68 at 8. The Court did not find a lower offense level, but granted a departure and then varied downward based on the defendant’s “employment and continued education.” *See* SOR. BOP records do not show any disciplinary action. The defendant is currently located at FCI Terminal Island, and his projected release date is August 9, 2024. *See* Bureau of Prisons Inmate Locator available at <https://www.bop.gov/inmateloc/> (last viewed Feb. 8, 2024).

Respectfully submitted,

Dated: February 12, 2024

PHILLIP A. TALBERT  
United States Attorney

/s/ Shelley D. Weger  
SHELLEY D. WEGER  
Assistant U.S. Attorney

Attorney for Plaintiff  
UNITED STATES OF AMERICA

Dated: February 12, 2024

HEATHER E. WILLIAMS  
Federal Defender

/s/ David M. Porter  
DAVID M. PORTER  
Assistant Federal Defender

Attorney for Defendant  
ELAN EFRAIM MOSHE

**ORDER**

This matter came before the Court on the stipulated motion of the parties for reduction of sentence pursuant to 18 U.S.C. § 3582(c)(2).

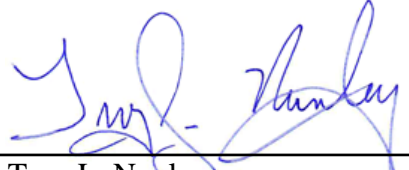
The parties agree, and the Court finds, that Mr. Moshe is entitled to the benefit of Amendment 821, Part B, Subpart 1, the new zero-point provision, which reduces the total offense level from 21 to 19, resulting in an amended guideline range of 30 to 37 months.

IT IS HEREBY ORDERED that, pursuant to USSG § 1B1.10(b)(2)(B), the term of imprisonment imposed in March 2023 is reduced to 20 months. If the amount of time served as of the effective date of this order exceeds 20 months, the sentence is instead reduced to a sentence of time served, in which case, this order is stayed for up to ten (10) days to allow the Bureau of Prisons to perform its statutory duties and release planning.

IT IS FURTHER ORDERED that all other terms and provisions of the original judgment remain in effect. The clerk shall forthwith prepare amended judgment reflecting the above reduction in sentence, and shall serve certified copies of the amended judgment on the United States Bureau of Prisons and the United States Probation Office.

Unless otherwise ordered, Mr. Moshe shall report to the United States Probation Office within seventy-two hours after his release.

Dated: February 13, 2024

  
Troy L. Nunley  
United States District Judge